

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

COST-BENEFIT ANALYSIS

LSA Document #20-89

I. Statement of Need.

A. Intention of rule.

This rule amendment is intended to reduce regulatory burden and to make the rule consistent with amendments made to IC 8-1.5-3-8.3 by the General Assembly (HEA 1137; HEA 1307). HEA 1126 added IC §8-1.5-3-8.3, which allows either the municipality or customers living outside the municipality to petition the Indiana Utility Regulatory Commission to review, and adjust, if necessary, certain utility rate differentials. IC§ 8-1.5-3-8.3(k) provided that the Commission may adopt rules in order to implement the new legislation.

B. Estimated number affected.

The Commission estimates the following will be affected by the rule:

1. **Individuals:** It is unknown how many individuals may be affected by the rule.
2. **Businesses:** It is unknown how many businesses may be affected by the rule.
3. **Number of municipalities that may be affected:** It is somewhat unknown how many municipalities may be affected by the rule. There are approximately three-hundred and ninety (390) municipalities with water utilities and approximately three-hundred and ninety (390) municipalities with wastewater utilities at present in Indiana. It is not known how many of those municipal utilities have customers outside of their corporate boundaries. It is also unknown how many municipal utilities will raise their rates for customers outside of their corporate boundaries such as may trigger the filing of a petition under this statute.

C. Policy or goal of rule.

This rule is intended to reduce the regulatory burden on municipalities and consumers filing under the rule (i.e., the petitioner) by making the rule consistent with the statute, by providing clarity as to the rule's provisions, and by increasing procedural efficiencies.

1. Conduct the rule is designed to change.

The purpose of this rule is to reduce regulatory burden by incorporating amendments made to IC 8-1.5-3.8.3 by the General Assembly (HEA 1137; HEA 1307), by providing clarity as to the rule's directives and by increasing procedural efficiencies.

2. Harm resulting from the conduct above.

IC §8-1.5-3-8.3 addresses a relatively common situation where a municipality imposes higher utility rates and charges on customers who live outside the municipality than those imposed on the customers living inside the municipality. Section 8.3 provides that either the outside customers or the municipality may petition the commission for review of the rate differential to determine whether they are non-discriminatory, just and reasonable. Prior to the enactment of this legislation, there was not a forum under which the affected customers or municipality could obtain an impartial review of the rate differentials to determine whether they are reasonable, non-discriminatory, and just.

This rule proposal seeks to amend Section 8.3 so as to align 170 IAC 1-7 with the 2013 statutory changes. Outdated rules can result in confusion if not in line with their relevant statutes. This can result in an unnecessary expenditure of time and resources spent reviewing and trying to align outdated rule provisions with their relative statutory directives.

3. Involvement of the regulated entities in rule development.

The Commission's Office of the General Counsel circulated an informational letter, together with the proposed rule amendments, to the Indiana Association of Cities and Towns (AIM) on March 5, 2019, and to the Indiana State Bar Association's Utility Law Section on July 10, 2019, explaining its intent to amend 170 IAC 1-7 and inviting feedback including whether any party believes there would be a fiscal impact resulting from these amendments.

Those documents, together with other relevant information, were published on the Commission's website on March 6, 2019, and on August 1, 2019.¹ The Commission received one inquiry from Rhonda Cook, Deputy Director for AIM, as to certain changes to the language in the proposed rule, but she raised no concerns nor offered any feedback regarding changes to the rule or with regards to any financial impacts. No other regulated utilities, municipality, stakeholder or any other interested party has provided feedback on this proposed rule. No fiscal or financial impacts were noted by any party at any time during this rule development.

¹ <https://www.in.gov/iurc/3123.htm>

4. Commission methodology.

Because the rule establishes Commission procedures, internal discussions initially determined the development of the rule. The Commission's Office of the General Counsel then circulated an informational letter, together with the proposed rule, to interested stakeholders via the Indiana Association of Cities and Towns ("AIM") and to the Indiana State Bar Association's Utility Law Section on March 5, 2019, and on July 10, 2019, respectively, explaining its intent to amend 170 IAC 1-7, and inviting feedback including whether any party believed there would be a fiscal impact resulting from the proposed amendments. Those documents, together with other relevant information, were published on the Commission's website on March 6, 2019, and on August 1, 2019.

II. Evaluation of Costs and Benefits.

There are negligible costs associated with the proposed rule amendments in the form of a notice requirement being placed on the customer/petitioner to serve the municipality a copy of its' petition via U.S. Mail. Benefits include decreasing the regulatory impact and burden on municipalities and consumers through the avoidance of confusion caused by outdated rule sections, thereby increasing efficiencies and saving time and money.

A. Estimated primary and direct benefits.

The rule should save both time and money for the Commission, for the municipalities, and for consumers who elect to file a petition under this legislation, by providing clearer and consistent directives, by simplifying procedural guidelines and by providing updated sample petitions through the Commission's Water and Wastewater Division's website for the filing parties.

B. Estimated secondary or indirect benefits.

The rule provides a process by which customers and/or the municipality can seek Commission review, and if necessary, adjustment of certain rates and charges, which should ultimately result in utility rates that are non-discriminatory, just and reasonable.

C. Estimated compliance costs.

There are negligible compliance costs that will be imposed by this rule amendment on consumers, in the form of a notice requirement being placed on the customer/petitioner to serve the municipality a copy of its petition via U.S. Mail. There are no additional compliance costs that will be imposed by this rule amendment on municipalities, regulated utilities, the Indiana Office of Utility Consumer Counselor, or the Commission.

D. Estimated administrative expenses.

There are no additional administrative expenses that will be imposed on consumers, municipalities, regulated utilities, Indiana Office of Utility Consumer Counselor or the Commission.

E. Estimated cost savings to regulated entities.

The legislation only applies to municipal water and municipal wastewater utilities. There are approximately 390 municipal water utilities and 390 municipal wastewater utilities in the State at this time. This rule will not impose any significant additional costs as any documentation that the utilities are required to submit for Commission review are records that they should already have readily available. In addition, the rule directs the reader to sample petitions which should result in savings of time and money for municipal utilities and consumers.

F. Sources consulted and methodology used.

As the purpose of this rule is to implement new legislation concerning Commission review of certain rates and charges, the methodology for its development was based primarily on internal discussions with Commission staff regarding the legislation's specific requirements.

Additionally, the Commission's Office of the General Counsel invited stakeholders and other interested parties to provide feedback regarding the proposed amendments including whether any party believed there would be a fiscal impact resulting from the amendments. The Commission received no feedback from any party.

III. Examination of Alternatives.

A. Alternatives defined by statute.

The rule is consistent with the specific statutory requirement and clearly within the agency's statutory discretion. It is the opinion of the General Counsel's Office of the Commission that there are no alternatives to the proposed rule that will result in implementing the statutory intent of IC §8-1.5-3-8.3.

B. The feasibility of market oriented approaches.

It is not feasible for the market to remedy the alleged harm the rule is intended to regulate. The rule is a guideline for both petitioners and the Commission in specific cases where parties are challenging certain rates and charges, the subject matter of which is clearly within the jurisdiction of the commission.

C. Measures to improve the availability of information, as an alternative to regulation.

This rule clarifies the procedural timeframes and the information that petitioners shall provide to the Commission in order for it to perform the rate review. It provides information and clarity regarding the process and should therefore minimize regulatory inefficiencies.

D. Various enforcement methods.

Enforcement measures are not applicable to the proposed rule.

E. Performance standards rather than design standards.

The proposed rule is the least stringent means of updating and clarifying the process under which customers and municipal utilities can seek Commission review of certain rates and charges.

F. Different requirements for different sized regulated entities.

This rule is applicable only to rate challenges pertaining to municipal water and municipal sewer utilities. No additional performance standards or design standards are imposed by the proposed rule.

G. Establish a baseline.

No additional costs or requirements are imposed by this rule; therefore, different requirements for different sized firms are not applicable to this rule.

H. Different compliance dates.

Compliance dates are not applicable to this rule.

I. Redundancy.

The proposed rule does not duplicate standards already found in state or federal law.

IV. Administrative Rules Oversight Committee Analysis, IC 4-22-2-28(i)

A. Steps to minimize expenses to regulated entities required to comply with the rule.

Amending the rule will aid in minimizing expenses to municipalities and consumers by providing clarity as to its directives, by increasing procedural efficiencies, by providing access to sample petitions and by generally reducing the regulatory burden on municipalities and consumers.

B. Justification of any requirement or cost that is imposed on a regulated entity under the rule.

There are no known costs imposed on regulated entities resulting from these proposed rule amendments.

C. Annual economic impact of rule on all small businesses after the rule is fully implemented.

None.

D. Review of alternative methods of achieving the purpose of the rule that are less costly or intrusive or would otherwise minimize the economic impact of the rule on small businesses.

Unnecessary, as there is no known economic impact on small businesses resulting from these proposed rule amendments.

E. Consideration of any other law to conduct an analysis of the cost, economic

impact, or fiscal impact of a rule.

This statement considers all required fiscal analysis pursuant to IC 4-22.

V. Total Estimated Impact.

No independent verification or studies exist regarding the policy rationale and types and quantifications of the costs and benefits of the proposed rule. This analysis is based on Commission Staff's experience. The total estimated impact is **NOT** greater than \$500,000 on all regulated persons.